

FILED

OCT 31 2008

NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Khalee Moseley,

Plaintiff,

v.

District of Columbia *et al.*,

Defendants.

Civil Action No. 08 1880

MEMORANDUM OPINION AND ORDER

Plaintiff Khalee Moseley, a prisoner, has filed a *pro se* complaint seeking redress from governmental entities. Because this Court is obligated to review such complaints, 28 U.S.C. § 1915A(a), and to dismiss the complaint or any portion of it if it seeks monetary relief from a defendant who is immune from such relief, 28 U.S.C. § 1915A(b)(2), the United States will be dismissed from the case and the case caption amended accordingly.

The complaint identifies as defendants the United States, the District of Columbia, the Mayor of the District of Columbia and the Metropolitan Police Department ("MPD"). It also mistakenly identifies the Mayor and the MPD as employee/agents of the United States. (Compl. ¶ 4.) The complaint alleges that the plaintiff was convicted of violating D.C. Code § 48-904, possession with intent to distribute marijuana, and sentenced to imprisonment for twenty months. (*Id.* ¶¶ 7-8.) While the plaintiff was in custody, his automobile was seized and sold without notice or hearing. Plaintiff alleges that such conduct violated his due process protections under the 5th and 14th Amendments, as well as violating D.C. Code § 48-905.02. (*Id.* ¶¶ 13, 15.) Plaintiff seeks \$75,000 in damages.

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The United States has not waived its sovereign immunity with respect to constitutional tort claims. *See Clark v. Library of Congress*, 750 F.2d 89, 102-03 (D.C. Cir. 1984). Therefore, this Court has no jurisdiction to entertain such a claim against the United States, and must dismiss the constitutional tort claim against the United States. 28 U.S.C. § 1915A(b)(2). Because the United States will be dismissed as a defendant from this case, the caption will be modified accordingly.

For the reasons stated, it is hereby

ORDERED that the claim against the United States is DISMISSED and the United States is DISMISSED as a party to this action. It is

FURTHER ORDERED that the case caption is amended to exclude the United States as a defendant.

Date: 10/30/08


United States District Judge